

# Supplemental Memorandum

**To:** STATE BOARD MEMBERS

**Date:** 1/24/03

**From:** Susan Lange, Deputy Superintendent  
Finance, Technology and Administration

**Re:** ITEM #7

**Subject** REQUEST BY THE KNOWLEDGE IS POWER PROGRAM (KIPP) SUMMIT  
ACADEMY TO APPROVE A PETITION TO BECOME A CHARTER  
SCHOOL UNDER THE OVERSIGHT OF THE STATE BOARD OF  
EDUCATION.

The Advisory Commission on Charter Schools (ACCS) heard the KIPP Summit Academy appeal on January 21, 2003. The ACCS voted unanimously to recommend approval of the petition, with conditions of operation, to the State Board. The ACCS disagreed with one California Department of Education (CDE) staff recommendation on this petition. The CDE recommendation is that the charter be granted to the KIPP Summit Academy rather than the KIPP California organization. The ACCS recommends that KIPP California be granted the charter, as proposed by the petitioners. This issue is discussed in detail on page 3 of Attachment 1.

If the State Board approves this petition, we recommend that it do so for a three-year term beginning July 1, 2003 with the attached conditions of operation and that it be given charter number 524.

Please see the following attachments:

Attachment 1: State Board of Education Charter School Appeal Findings (Pages 1-12)

Attachment 2: Petition For Charter Approval for the KIPP Summit Academy (Pages 1-296)  
(This attachment is not available on the web)

## State Board of Education Charter School Appeal Findings

School Name: Knowledge Is Power Program (KIPP) Summit Academy	
Denying District: San Lorenzo Unified School District	Date Denied: 11/19/02
County: Alameda	
Date Received by SBE: 12/20/02	

STATUTORY REASONS FOR DENIAL	Concerns*
1. The Charter School presents an unsound educational program for pupils to be enrolled in the charter school.	<input checked="" type="checkbox"/>
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.	<input checked="" type="checkbox"/>
3. The petition does not contain the number of required signatures.	<input type="checkbox"/>
4. The petition does not contain an affirmation that the school shall be nonsectarian, shall not charge tuition and shall not discriminate.	<input type="checkbox"/>
5. The petition does not contain reasonably comprehensive descriptions of the required elements.	<input checked="" type="checkbox"/>
*See detail regarding concerns on findings 1, 2, and 5 on the following pages.	

GENERAL COMMENTS AND AFFIRMATIONS	Included	
	Yes	No
Evidence of local governing board denial per <i>Education Code</i> (EC) Section 47605 (j)(1) and 5 CCR 11967(a)(2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Reason for denial included (5 CCR 1967(a)(2))	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Full charter included (EC 47605(b)(5)).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Signed certification of Compliance with applicable law (5 CCR 11967(b)(3))	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Written verification of SELPA participation or district delegation to accept charter in the LEA for Special Education (EC 47641© and (d))	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Serves pupils in grade levels that are served by the school district of the governing board that considered the petition (EC 47605(a)(6))	<input checked="" type="checkbox"/>	<input type="checkbox"/>

FINDING #1	Concerns
<p>The charter school presents an unsound educational program for pupils to be enrolled in the charter school (EC 47605(b)(1)).</p> <ul style="list-style-type: none"> <li>• Program presents the likelihood of physical, educational, or psychological harm;</li> <li>• Program is not likely to be of educational benefit to the pupils who attend. (5 CCR 11967.5.1(b)).</li> </ul>	
<p>Comments: The KIPP Summit Academy charter petition is one of the most comprehensive and detailed proposals that have come to the State Board on appeal. The academic program appears well thought out and is fully grounded in the California Academic Content Standards. The proposal contains measurable student outcomes and describes how they will be assessed. The KIPP Foundation also conducts an extensive evaluation of all its schools, which is described in detail in the proposal. Staff has, nonetheless, identified a few issues of concern in the proposal.</p> <ul style="list-style-type: none"> <li>• The petition generally does not address how special education students will be provided programs and services that will allow these students to master the accelerated and rigorous curriculum proposed in the petition. For example: <ul style="list-style-type: none"> <li>(1) It is unclear whether KIPP Summit Academy is going to participate in a SELPA as an LEA or under the district umbrella;</li> <li>(2) There is no detail regarding the qualifications of instructional staff for special education students;</li> <li>(3) The position of Special Education Manager is not clearly defined other than to say that the position will be generally responsible for overseeing casework management for all special education students;</li> <li>(4) It is not clear how special education English Language Learners (ELL) would be incorporated into an accelerated program and exposed to a rigorous core curriculum and the school expects that approximately 25% of its students will be ELL;</li> <li>(5) The school plans on using a contract service provider to provide special education services, some of which the contractor may not be certified to provide.</li> </ul> </li> <li>• The Student/Parent Handbook appears to penalize students for parental behavior by stating that failure of parents to adhere to commitments can lead to a child returning to his/her home school. The petitioners have indicated that what was meant by this language was that students who are an immediate physical threat to others at the school may be removed from the school, not that a student would be expelled because a parent did not get the student to school on time or failed to attend a parent/teacher conference. We recommend this section be revised to state more clearly what the intent is or be removed. Petitioners have agreed to add clarifying language.</li> </ul>	

FINDING #2	Concerns
<p>The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition (EC 47605(b)(2)).</p> <ul style="list-style-type: none"> <li>• Petitioners have a past history of involvement with charter schools or other education agencies that are regarded as unsuccessful;</li> <li>• Petitioners are unfamiliar with the contents of petition or requirements of law;</li> <li>• Petitioners have presented an unrealistic financial and operational plan for the charter school;</li> <li>• Petitioners lack the necessary background in curriculum, instruction and assessment, and finance and business management, and have no plan for securing individuals with the necessary background (5 CCR 11967.5.1(c)).</li> </ul>	
<p>Comments: The petitioners appear to have a well-qualified and experienced team of charter developers and have had success in operating other charter schools around the country. The petitioners have a good sense of the tasks and time lines involved in opening a new school and provide extensive training to new school leaders. KIPP staff seems to have developed a good rapport with San Lorenzo Unified School District staff in spite of district denial of the petition. Staff, however, does note a couple of concerns with the governance and budget sections of the proposal.</p> <ul style="list-style-type: none"> <li>• The State Board member of the school's governing board is proposed to be a non-voting member. We recommend that this provision be changed to include the State Board member as a voting member. The petitioners have no problem with this recommendation.</li> <li>• The charter proposes to make the KIPP California organization the charter holder rather than the school. Both are established as non-profit corporations with their own separate boards of directors. KIPP California would contract with KIPP Summit Academy to ensure that the school is upholding the KIPP model to the appropriate standards. This proposal creates a situation where there are multiple organizations with different boards that are responsible for implementing the charter, but liability and accountability do not clearly rest with one organization.</li> </ul> <p>Indeed, there are a few instances in the charter where both KIPP California and KIPP Summit Academy appear to have equal policy making and fiduciary responsibilities. In addition, the School Leader is appointed by KIPP California but appears to be an employee of the school and is evaluated by the school board of directors. The school board is, according to the charter, responsible for the day-to-day operations and is liable for all actions of the school. However, KIPP California is empowered to implement, manage, and operate the school. KIPP California can also terminate its agreement with the school. If it does this, it is unclear what the status of the school is since KIPP California is the entity that has been granted the charter. In a sense, KIPP California would be usurping State Board powers to revoke and for reasons other than those specified in statute. These examples make it difficult to determine who has ultimate authority for the KIPP Summit Academy.</p>	

For liability, accountability, funding and risk exposure purposes we recommend that the school be the charter holder rather than the statewide KIPP organization.

The ACCS has disagreed with CDE staff on this issue and recommends that the charter holder be KIPP California rather than the school. The ACCS also recommends that the charter petition be revised to clearly describe the status of each organization should KIPP California terminate its agreement with KIPP Summit Academy or the school board decide to close the school.

Apparently, this issue has surfaced in other states and with other proposed KIPP schools in California. In other instances we understand KIPP California has agreed to allow the local school to be granted the charter rather than the state organization. Regardless of which entity the SBE grants the charter to, we recommend in addition to the language recommended by the ACCS, that the applicants provide copies of the by-laws of each organization and a copy of the agreement between KIPP California and KIPP Summit Academy signed by both parties and that the governance section of the charter be revised to more clearly describe the duties and responsibilities of each organization. Finally, if the SBE chooses to grant the charter to KIPP Summit Academy, we recommend language be added to the charter stating that if the school decides not to adhere to the KIPP model or KIPP California terminates its agreement with the school, the State Board will consider this change a material change to the charter requiring the school to submit amendments to its charter to the State Board for approval.

<b>FINDING #3</b>	<b>No Concerns</b>
The petition does not contain the number of signatures required by law (EC Section 47605(b)(3) and (5 CCR 11967.5.1(d)).	
Comments:	

<b>FINDING #4</b>	<b>No Concerns</b>
The petition does not contain an affirmation of each of the following: <ul style="list-style-type: none"> <li>• Shall be nonsectarian</li> <li>• Shall not charge tuition</li> <li>• Shall not discriminate (EC Section 47605(b)(4) and (5 CCR 11967.5.1(e))</li> </ul>	
Comments:	

<b>FINDING #5</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
The petition contains reasonably comprehensive descriptions of the following (EC Section 47605(b)(5) and (5 CCR 11967.5.1(f)):		
(A) A description of the educational program, including how information will be provided to parents on transferability of courses and eligibility of courses to meet college entrance requirements.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: None		
(B) The measurable pupil outcomes	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: None		
(C) The method by which pupil progress is to be measured (compliance with statewide assessments and standards)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: None		
(D) Governance structure, including the process to ensure parental involvement	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Concerns are described under Finding #2		

(E) Qualifications to be met by those employed	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment: Petition does not describe qualifications of special education staff or the Special Education Manager.		
(F) Procedures to ensure health and safety of pupils and staff, including criminal records summary (per EC Section 44237)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: None		
(G) The means by which the school will achieve racial and ethnic balance reflective of the district population	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: None		
(H) Admission requirements, if applicable (District priority or lottery per EC 47605 (d)(2))	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: None		
(I) The manner in which an independent annual financial audit is to be conducted	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Petition does not specify that audit will be completed by December 15 each year, nor does it specify that the auditor will have experience in education finance.		
(J) The procedures by which pupils can be suspended or expelled	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: None		
(K) The manner by which staff will be covered by STRS, PERS, or Social Security	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Petition does not describe which positions will be covered or who is responsible for making appropriate arrangements for coverage.		
(L) The public school attendance alternatives for pupils residing in the school district who choose not to attend charter schools (No governing board of a school district shall require any pupil enrolled in the school district to attend a charter school)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Petition does not include standard language as required in the regulations.		

(M) A description of the rights of any employee of the district, upon leaving the employment of the district to work in the charter, and of any rights of return to the school district after employment at the charter school (No governing board of a school district shall require any employee of the school district to be employed in a charter school (EC 47605(e))	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Petition does not include standard language as required in the regulations.		
(N) Process for resolution of disputes with chartering entity	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Petition does not include standard language as required in the regulations. Language in petition also appears to limit SBE intervention in certain disputes. Recommend language be revised to allow the SBE to intervene any time it believes its fundamental interests are being compromised.		
(O) Declaration whether or not the charter school shall be deemed the exclusive public employer for the purposes of EERA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: None		
(P) A description of the procedures to be used if the charter school closes	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Although not required by law for petitions submitted before January 1, 2003, it is reasonable for the State Board to require such procedures.		



### Recommended Conditions of Operation for State Board Charter Appeals

Condition	Recommended	Not Recommended	Alternative Date
1. <b>Insurance Coverage</b> -not later than <b>June 1</b> , (or such earlier time as school may employ individuals or acquire or lease property or facilities for which insurance would be customary), submit documentation of adequate insurance coverage, including liability insurance, which shall be based on the type and amount of insurance coverage maintained in similar settings.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2. <b>Oversight Agreement</b> -not later than <b>January 1</b> , either (a) accept an agreement with the State Board of Education (administered through the California Department of Education) to be the direct oversight entity for the school, specifying the scope of oversight and reporting activities, including, but not limited to, adequacy and safety of facilities; or (b) enter into an appropriate agreement between the charter school, the State Board of Education (as represented by the Executive Director of the State Board), and an oversight entity (pursuant to EC Section 47605(k)(1)) regarding the scope of oversight and reporting activities, including, but not limited, adequacy and safety of facilities.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	03/03/2003

Condition	Recommended	Not Recommended	Alternative Date
<p>3. <b>SELPA Membership</b>-no later than <b>February 1</b>, submit written verification of having applied to a special education local plan area (SELPA) for membership as a local education agency and, not later than <b>June 1</b>, submit either written verification that the school is (or will be at the time students are being served) participating in the SELPA, or an agreement between a SELPA, a school district that is a member of the SELPA, and the school that describes the roles and responsibilities of each party and that explicitly states that the SELPA and the district consider the school's students to be students of the school district in which the school is physically located for purposes of special education programs and services (which is the equivalent of participation in the SELPA). Satisfaction of this condition should be determined by the Executive director of the State Board of Education based primarily on the advice of the State Director of Special Education based on a review of either the school's written plan for membership in the SELPA, including any proposed contracts with service providers or the agreement between a SELPA, a school district and the school, including any proposed contracts with service providers.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Delete application date – June 1, 2003, verification date remains.</p>

Condition	Recommended	Not Recommended	Alternative Date
<p>4. <b>Educational Program</b>-not later than <b>January 1</b>, submit a description of the curriculum development process the school will use and the scope and sequence for the grades envisioned by the school; and, not later than <b>June 1</b>, submit the complete educational program for students to be served in the first year including, but not limited to, a description of the curriculum and identification of the basic instructional materials to be used, plans for professional development of instructional personnel to deliver the curriculum and use the instructional materials, identification of specific assessments that will be used in addition to the results of the Standardized Testing and Reporting (STAR) program in evaluating student progress, and a budget which clearly identifies the core program from enrichment activities and reflects only those loans, grants, and lines of credit (if any) that have been secured by the Executive Director of the State Board of Education based primarily on the advice of the Deputy Superintendent for Curriculum and Instructional Leadership.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>5. <b>Student Attendance Accounting</b>-not later than <b>May 1</b>, submit for approval the specific means to be used for student attendance accounting and reporting that will be satisfactory to support state average daily attendance claims and satisfy any audits related to attendance that may be conducted. Satisfaction of this condition should be determined by the Executive Director of the State Board of Education based primarily on the advice of the Director of the School Fiscal Services Division.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	06/02/2003

Condition	Recommended	Not Recommended	Alternative Date
<p>6. <b>Facilities Agreement</b>-not later than <b>January 1</b>, present a written agreement (a lease or similar document) indicating the school's right to use the principal school site identified by the petitioners for at least the first year of the school's operation and evidence that the facility will be adequate for the school's needs. Not later than <b>June 1</b>, present a written agreement (or agreements) indicating the school's right to use any ancillary facilities planned for use in the first year of operation. Satisfaction of these conditions should be determined by the Executive Director of the State Board of Education based primarily on the advice of the Director of the School Facilities Planning Division.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>06/03/2003 for all facilities</p>
<p>7. <b>Zoning and Occupancy</b>-not less than <b>30 days</b> prior to the school's opening, present evidence that the facility is located in an area properly zoned for operation of a school and has been cleared for student occupancy by all appropriate local authorities. For good cause, the Executive Director of the State Board of Education may reduce this requirement to fewer than 30 days, but may not reduce the requirement to fewer than 10 days. Satisfaction of this condition should be determined by the Executive Director of the State Board of Education based primarily on the advice of the Director of the School Facilities Planning Division.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Condition	Recommended	Not Recommended	Alternative Date
<p>8. <b>Final Charter</b>-not later than <b>January 1</b>, present a final charter that includes all provisions and/or modifications of provisions that reflect appropriately the State Board of Education as the chartering authority and otherwise address all concerns identified by California Department of Education staff, and that includes a specification that the school will not operate satellite schools, campuses, sites, resource centers or meeting spaces not identified in the charter without the prior written approval of the Executive Director of the State Board of Education based primarily on the advice of appropriate CDE staff.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>04/01/2003</p>
<p>9. <b>Legal Issues</b>-in the final charter presented pursuant to condition (8), resolve any provisions related to legal issues that may be identified by the State Board's Chief Counsel.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<p>10. <b>Processing of Employment Contributions</b>-prior to the employment of any individuals by the school, present evidence that the school has made appropriate arrangements for the processing of the employees' retirement contributions to the Public Employees' Retirement System (PERS) and the State Teachers' Retirement System (STRS).</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<p>11. <b>Operational Date</b>-if any deadline specified in these conditions is not met, approval of the charter is terminated, unless the State Board of Education deletes or extends the deadline not met. If the school is not in operation by <b>September 30, 2004</b>, approval of the charter is terminated.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	